

ARIZONA STATE BOARD OF EDUCATION
Monday April 25, 2016
9:00 A.M.
Arizona Department of Education, Room 122
1535 W. Jefferson St, Phoenix, AZ 85007

The Arizona State Board of Education held a regular meeting on April 25, 2016 at the Arizona Department of Education, 1535 West Jefferson Street, Room 122, Phoenix, Arizona. The meeting was called to order at 9:00 a.m.

Members Present

Chuck Schmidt
Dr. James Rottweiler (present telephonically)
Tim Carter
Amy Hamilton
Vice President Reginald Ballantyne III
Roger Jacks
Jared Taylor
Superintendent Diane Douglas
Dr. Rita Cheng

Members Absent

President Greg Miller

9:00 a.m. Call to order, Pledge of Allegiance, Moment of Silence and Roll Call

1. BUSINESS REPORTS

A. President's Report

1. Introduction of Dr. Rita H. Cheng

Vice President Ballantyne, acting as President, introduced Dr. Rita Cheng, President of Northern Arizona University, to replace Dr. Crow on the Board.

2. Scheduling of Summer Retreat

Dr. Schmidt, Executive Director of the State Board of Education (SBE), advised that the Summer Retreat is set for June 13, 2016 at the Flinn Foundation, tentatively at 9 a.m.

B. Superintendent's Report

Superintendent Douglas spoke on the great contributions of school counselors and awarded a Certificate of Recognition to the winners of the State and National Counselor Awards.

1. **Ms. Cadi Angeli** – Sonoran Trials Middle School, Cave Creek SD – State Counselor Award
2. **Ms. Katherine Pastor** –Flagstaff SD—National Counselor Award

C. Board Member Reports

Member Taylor gave an update on the 5-alarm fire that happened in Gilbert over the weekend. He expressed gratitude that there were no serious injuries from the event.

1. Academic Standards Update

Member Taylor presented an update on the Arizona Standards Development Committee. He advised of an opening for a community member parent of a high school student to be on the standards subcommittee.

D. Executive Director's Report

1. Policy Development Updates

Dr. Schmidt invited Pearl Chang Esau from Expect More Arizona to present on the Arizona Education Progress Meter measuring education progress across the state and advised on the 8 criteria being measured.

Vice President Ballantyne inquired how the Progress Meter will be utilized. Ms. Esau advised that it will drill down from state to county to school level and can be used by parents and education stakeholders. She advised it is a database that will measure annual metrics. She hopes that it eventually can be used as a comparison to other states.

Dr. Schmidt advised that she wants to bring this to the SBE to add the Board's endorsement. She advised of various committee actions to vote on this summer and recommended that the Board update their accountability vision. She advised of the number of Guidance Counselors certified.

Dr. Schmidt then introduced Jackie Jones, State Board of Education Deputy Director.

2. Investigative Unit Updates

Dr. Schmidt presented the ongoing updates on Investigative Unit activities. She advised of the Investigative Unit's progress in reducing its backlog. She predicts that they will have zero backlogged cases as of May. They are continuing to audit back to the 1990's and eventually into 1989. She advised of assembling group of stakeholders to get input on suggestions for updating enforcement actions. They have brought the backlog of cases down from 330 to 220 cases. 61 enforcement actions have been brought to the Board so far this year, compared to 14 last year.

3. Education Learning and accountability system quarterly reports

Dr. Schmidt advised that, pursuant to ARS 15-249, the Board should be given an update from the Arizona Department of Education (ADE) on the Education Learning Accountability System and suggested that the SBE request a timeline and cost estimates. She suggested that the SBE formally request an update from ADE as had been given at the April 2015 meeting.

Dr. Rottweiler requested an update on the AZ Student Longitudinal Data System from ADE. It is part of the accountability system quarterly report, but community colleges and universities had been required to give money for its implementation. He advised that he wants the report to give to the community to confirm that the project hasn't collapsed.

Superintendent Douglas advised that ADE would be glad to look into the report and would have been happy to provide the report this month had the Executive Director requested it before the meeting.

Vice President Ballantyne advised that the SBE needs to do better with communication.

4. Updates regarding requests for video streaming of Board meetings

Dr. Schmidt advised she is working with a vendor for technical support to provide video streaming. Superintendent Douglas advised that video streaming is a standard operating procedure in most school boards. She advised that the Board purchased video equipment several years ago and requested that it go onto the next agenda for discussion.

2. CONSENT AGENDA

All items on the Consent Agenda will be considered by a single motion with no discussion, unless an item is removed and discussed as a regular agenda item upon the request of any Board member.

Vice President Ballantyne inquired if there were any items a member requested to be pulled. Superintendent Douglas advised that she wanted to pull E-2 and all of Item F.

Member Jacks made the motion, seconded by Member Carter to come back to these items at the end of the agenda and accept all other items. All in favor.

- A. Approval of additional monies for Teacher Compensation for the fiscal year 2016-2017.
- B. Approval to receive 2016 state aid and budget capacity due to the Capital Transportation Adjustment for Small School Districts.
- C. Approval of the Move On When Ready qualification scores for the Arizona World History Spring 2016 Administration.
- D. Approval of the permanent revocation of any and all educator certificates, pursuant to A.R.S. § 15-550, held by:
 - 1. Ryan Robert Rath
 - 2. Murat Ahmet Alev
- E. Approval of the voluntary surrender of the educator certificates held by:
 - 1. Aiden Edward Young
 - 2. **Angel Roman Verdugo**
 - 3. Grant L. Turley
 - 4. James McNamee
 - 5. Lilian Houston
 - 6. Humberto R. Gutierrez
 - 7. Steven M. Grant
 - 8. Douglas A. Cline
 - 9. Douglas Eugene Clapp
- F. **Approval of the negotiated settlement agreements held by:**
 - 1. **Christopher M. Rice**
 - 2. **Gordon Ray**
 - 3. **Donna M. Colson**
 - 4. **Catherine Mary Ballman**
 - 5. **Brandon Brothers**

3. CALL TO THE PUBLIC

Merri Zohar gave an update from the north valley on troubles with parental opt out for AzMERIT.

Kelley Murphy, representing Arizona Early Childhood Alliance, spoke regarding concerns over AzMERIT and Move On When Reading (MOWR) causing stress due to not receiving results from AzMERIT in a timely manner. Asked that MOWR Audit Results given in summer retreat and tools to give to parents and schools. Advised AZECA will be happy to provide resources.

Joe Geusic gave a speech on the importance of education to our state.

4. GENERAL SESSION

A. Presentation and discussion regarding the performance audit of the Arizona Department of Education K-3 Reading Program.

Presentation from the Office of State Auditor General by Jeff Grove, the Performance Audit Manager.

Vice President Ballantyne inquired if this audit is a periodic activity. Mr. Gough advised there is a performance audit every ten years.

Superintendent Douglas referenced the report given and advised of ADE response. She advised that ADE would be happy to implement the recommendations but currently in statute the program is a program of SBE and not ADE. It was only delegated to ADE in October of 2015 but the SBE did not transfer the total amount of funding. She stated that she does not think it fair to have placed the blame for the faults in the program on ADE when they only ran it for a few months and the SBE operated it for the bulk of the time on which the audit was based, in addition to the issues with not having enough funding to administer it. The Superintendent advised that the money given to this program was used to hire the Deputy Director of SBE and not given to MOWR.

The Executive Director responded that \$500,000 was given to ADE by the legislature. Superintendent Douglas advised that \$500,000 was for teacher training from JLBC but the SBE was originally allocated \$1.3 million for administration.

Vice President Ballantyne inquired about remaining recommendations not being followed. Superintendent Douglas advised that actions that are appropriate and beneficial to the state will be followed, but some cannot be implemented due to funding. Superintendent Douglas gave a recommendation that if it stays in statute that it is program of the SBE, then the Board should take it back over.

Member Carter inquired why the audit was directed at ADE when statute gives it to the Board.

Mr. Gough advised that the appropriation given to ADE gives them the responsibility. He advised that the Auditor General's office will give a follow-up presentation in 6 months.

B. Presentation, discussion and possible consideration to approve the request of Phoenix Elementary School District No. 1 to assume accounting responsibility, pursuant to A.R.S. § 15-914.01.

Dr. Schmidt advised that many other offices have approved this request. At the behest of Vice President Ballantyne, she agreed to put similar items on the consent agenda next time.

Member Jacks made the motion and Member Carter seconded to approve the request of Phoenix Elementary School District No. 1 to assume accounting responsibility. All were in favor.

C. Presentation and discussion regarding legislative affairs. The Board may take action to support, oppose or remain neutral on specific legislative proposals.

This presentation to the SBE was made by Brooke White. She agreed to update Vice President Ballantyne when the budget is released from the legislature.

D. Presentation, discussion and possible action regarding the retention status of third grade students who read significantly below grade level for the 2016-2017 school year as determined by scores on the third grade English Language Arts AzMERIT exam due to delayed receipt of AzMERIT scores.

The presentation on this to the SBE was made by Carol Lippert, Associate Superintendent of High Academic Standards for Students, and Dr. Leila Williams, Associate Superintendent of High Quality Assessments, Accountability/School Improvement and Adult Education.

Assistant Attorney General Kim Anderson advised that the statutory obligation of the Board is to uphold the law that third graders cannot be passed onto the next grade level without a passing score on the reading portion of the statewide assessment, currently the AzMERIT test.

Member Hamilton mentioned Option 3 in the Board packet related to data being unavailable and asked if it could be used instead of retention.

Kim Anderson explained the only exemptions to having a passing test score and stated that as long as the test results are given before the start of the following academic school year a passing grade would be a requirement. According to the report from the Associate Superintendents, the data will be available before the next school year.

CALL TO THE PUBLIC

Becky Hill—Scottsdale Unified School District—suggested that the SBE work with the vendor to provide the reading scores separated from the rest by the end of the school year.

Ed Sanchez spoke for Stand for Children.

Dr. Suzie DePrez—Assistant Superintendent of Mesa Public Schools—was concerned about the timing. She also urged that the best option is to ask the vendor to produce the reading scores early. She stated Option 2 in the Board packet would create different standards among the schools.

Member Carter inquired if ADE could negotiate with the vendor to deliver the AzMERIT reading results separated from the rest and have them before the end of the school year.

Dr. Williams advised likely not possible. Those decisions came as result of information on when tests were uploaded. The contract for this was given to ADE, so it had no say in how it was worded.

Ildi Laczko-Kerr from the Arizona Charter Association advised that the whole scope of literacy should be tested, not just reading. She stated that the online portion of the test is more of a test of typing skill than reading skill.

Mark Joraanstad, Superintendent of Saddle Mountain Unified School District provided a written submission for the Call to the Public found in the Board packet.

Member Carter inquired if the SBE could make a request to change the contract, working with procurement office, to get those results early. Dr. Williams advised that we could not get results before the end of school. It is not an option for this year.

Member Taylor stated that this issue hinges upon the definition of the academic year according to A.R.S. 15-701.A(2). Receiving the results after the end of the school year but before the next does not give parents an opportunity for remediation.

Members Carter, Taylor and Vice President Ballantyne inquired of Assistant Attorney General Kim Anderson if Option 1 in the board packet would be the only viable option. She stated that yes, as long as scores are available before the next school year, statute would have to be followed for the retention of third graders.

Member Taylor suggested that the definition of “available” is in question. He stated that, as per the Department of Education, July 11 is when it is made publicly available to families. They have the results before then but they cannot be shared.

Irene Hunting, ADE's Deputy Associate Superintendent of Assessment, clarified that while aggregate results cannot be given out, individual student results can be shared immediately with parents.

Member Jacks inquired about what leeway school districts have as to the decision about retaining or providing intervention. He inquired if the terminology provides leeway. Counsel Kim Anderson advised intervention strategies are devised by the SBE and it is up to the local body to choose an appropriate intervention or remedial strategy.

Member Taylor suggested that the wording on using a successor test may be a possibility, as a summative test may be chosen and administered by local schools to pass the students. An alternate test given to students just to pass them from the third grade could be used as evidence that a third grader can read.

Kim Anderson advised that the successor test was a reference to the statewide test in succession to the AIMS test, not a local test.

Superintendent Douglas commented that the Attorney General's Office is picking apart the wording of statute for this issue but such concerns have not been raised over attention to detail in the past as they should have been.

Counsel Anderson advised that she would like to discuss this with the Superintendent.

Superintendent Douglas then brought up A.R.S. 15-521 and stated that the final decision to pass students rests with the teacher. She stated that she doesn't want to accept a decision that would negatively affect the entire future of these children's educations.

Member Hamilton advised that she agrees with Member Taylor.

Dr. Schmidt advised on concerns over unintended consequences down the road with regard to the context of accepting an alternate assessment in lieu of the statewide assessment. She advised that passing the legislation for the Menu of Assessments is the proper format.

Dr. Rottweiler asked about process if Option 1 taken. Member Jacks advised the results are given to parents as soon as possible. Dr. Rottweiler inquired as to what is going to happen, what is the decision point? Multiple members stated that there is no decision, the students affected must be retained whether they ultimately passed or failed.

Dr. Suzie DePrez advised that Mesa Public Schools would have to give a report card regardless of test results and would put "pending" on report cards as to whether the students are passed or retained with a letter stating that they would provide results as soon as possible. They would be required to retain the third graders unless they met some requirement for exemption. The

statute states that they must be retained, give summer intervention and assess that the child is able to read and will be promoted mid-year.

Dr. Williams stated that 3,000 students are affected by this, but after the exemptions, somewhere between 400 to 650 students would have to be retained.

Dr. Cheng advised that she has heard concerns from the colleges over how the school districts will assign classes and hire teachers without knowing the final student count and provide proper mediation. She suggested an earlier test date in the future.

Member Jacks advised will go along with Option 1.

Dr. Rottweiler made the motion to implement retention practices in 15-701 with no adjustment. Seconded by Roger Jacks.

Member Taylor advised that he cannot support a typing test more than reading for 8 year olds. He advised it is creating a disparate impact in low income areas. He agreed that we are stressing the strict interpretation of the Move On When Reading intent. He suggested that ADE direct local school officials or charters to follow full letter of the law and not just MOWR language.

Member Rottweiler advised of the potential for teachers to have a mid-summer meeting with affected students look at the full body of work to promote them after the school year ends but before the start of the next academic year. He advised that this is in the best interest of the students.

Member Carter agrees that this would be the best option going forward, but that he doesn't think we have the legal authority to do this. He stated that he thinks we will have to retain all of the affected students until mid-academic year.

Assistant Attorney General Anderson concurs that the schools districts have the flexibility to promote mid-year after a summer intervention. She stated that there is, however, no definition of mid-year in statute or what constitutes intervention.

Member Carter advised that the MOWR statute takes authority away from teachers to decide when a student is ready to be promoted.

Dr. Rottweiler brought up 15-701.A(2). He also mentioned 15-701.C(2), which states that school district governing boards shall prescribe criteria as provided by district assessment.

The motion to provide direction to ADE to allow an LEA to use all of the assessment data available in determining the promotion or retention of third graders testing into the next grade

level and to consider all statute regarding promotion and retention was made Member Taylor. It was seconded by Superintendent Douglas.

Member Carter inquired if this could be resolved legislatively or put into the budget. Superintendent Douglas advised that it is not reliable.

Dr. Rottweiler advised that statute should be followed. He suggested that the ADE should communicate to the school districts that all statutes regarding promotion and retention should supersede MOWR statute.

All voted aye to original motion.

Kim Anderson advised that this is not permissible as the statute is extremely clear.

Dr. Rottweiler suggested that the schools retain the students then have some level of intervention. He advised that the statute is not clear on whether the student needs 1 day, 2 weeks, or 2 months of intervention, but that the school district should decide that based on teacher knowledge.

Member Schmidt stated that if AzMERIT scores are not available, then they cannot use that data.

Member Taylor stated that a student may not be retained if that data is not available.

Assistant Attorney General Anderson stated that the testing is tied to progression. A child cannot progress if the data is not available.

The Board took a roll call vote on the original amended motion.

Member Carter voted No and explained his vote: he feels that the Board cannot vote to overlook certain parts of statute.

Dr. Cheng: No

Superintendent Douglas: Yes

Member Hamilton: No

Member Jacks: No

Dr. Rottweiler: No

Member Schmidt: Yes

Member Taylor: Yes

Vice President Ballantyne: Abstaining

Amended motion does not pass.

Member Rottweiler then suggested that the Board move to vote on the original motion and implement the retention pursuant to A.R.S. 15-701.

Dr. Rottweiler made the motion, seconded by Member Carter, to implement retention practices as defined by A.R.S. § 15-701 with no adjustments and encouraged Board staff to work with the office of the Attorney General to issue a letter to provide districts with guidance on current existing statute.

Superintendent Douglas and Member Taylor voted No, all other members voted Aye.

Motion carries, 7-2.

The Board then recessed from 12:17 p.m. and returned at 12:30 p.m. without Dr. Rottweiler.

Request to move to Item G next.

G. Presentation, discussion and possible action to accept the findings of fact, conclusions of law and recommendation of the Professional Practices Advisory Committee to deny the application for certification of Allan Smith.

The presentation on the history of this applicant was made by Assistant Attorney General Eric Schwartz. Allan Smith was previously denied his application for certification of a principal's certificate and renewal of his teaching certificate in a screen preview, at which point he requested a full hearing. The Professional Practices Advisory Committee (PPAC) voted unanimously to deny the application for certification of Allan Smith. Gary Weiser, his attorney, spoke for Mr. Smith as to his version of events. Mr. Schwartz then advised of the information the PPAC used in their determination.

Member Carter moved to accept the findings of fact, conclusions of law and recommendation of the Professional Practices Advisory Committee to deny the application for certification of Allan Smith. The motion was seconded by Member Schmidt.

All in favor.

E. Presentation, discussion and possible action regarding creation of a Career and Technical Education Task Force to develop policy recommendations on the Career and College Pathway and on career literacy.

Member Carter moved to create a Career and Technical Education Task Force to develop policy recommendations on the Career and College Pathway and on career literacy. It was seconded by Member Taylor.

Member Carter requested that there be strong involvement from districts and EVIT.

Superintendent Douglas voted No, and explained her vote. She stated that there is no information on what the Task Force is or how it will work. All others voted Aye.

The official nominations to the Task Force by President Greg Miller will be released later, but Vice President Ballantyne advised that it is the President's intent to nominate President Greg Miller, Member Carter and Member Jacks to the Task Force.

F. Presentation, discussion and possible action to revise the Arizona Framework for Measuring Educator Effectiveness.

Member Schmidt exited the meeting at 1:10 p.m.

Member Hamilton advised that the Committee reconvened to make some adjustments to the framework per stakeholder recommendations.

Member Hamilton made a motion, seconded by Member Carter, that the Board revise the Arizona Framework for Measuring Educator Effectiveness to include "LEAs shall include all students for whom valid and reliable data exists."

All were in favor.

H. Presentation, discussion and possible action to accept the findings of fact, conclusions of law and recommendation of the Professional Practices Advisory Committee to suspend the certification of Maria Giles.

This item was presented by Mr. Schwartz and he described the events leading to the recommended 3 year suspension. Ms. Giles was present telephonically.

Member Taylor moved to accept the findings of fact, conclusions of law and recommendation of the Professional Practices Advisory Committee to suspend the certification of Maria Giles. The motion was seconded by Member Jacks.

Superintendent Douglas voted No and explained that she was opposed because the district handled the situation poorly and that Ms. Giles' actions culminated in the death of a student. She stated that she feels it would be more appropriate to have her Special Education certificate revoked.

All others voted Aye.

6-1 motion passes.

The Board moved back to the items on the Consent Agenda that Superintendent Douglas had requested be held.

2. CONSENT AGENDA

E. Approval of the voluntary surrender of the educator certificates held by:

2. Angel Roman Verdugo

This was a surrender of a certificate. Superintendent Douglas wanted to make a point that this case was first opened in September of 2009 but was not heard until September of 2010. In the meantime, the teacher in question moved to another state and abused children there. Superintendent Douglas wanted it to be stated before the public that the Investigative Unit needs to be under the direction of ADE and the experts of the Certification Unit to prevent this from happening again.

Superintendent Douglas moved to accept the voluntary surrender of the educator certificates held by Angel Roman Verdugo and it was seconded by Member Jared Taylor.

Ms. Anderson advised that the matter of the Investigators is being litigated by outside counsel.

All in favor. Motion passes.

F. Approval of the negotiated settlement agreements held by:

Superintendent Douglas inquired why the negotiated settlement agreements were put on the Consent Agenda when in the past they had been in the General Session.

Dr. Schmidt advised of the policy decision to have the settlements sent straight to the Board instead of going first before the PPAC to save on time to help reduce the backlog of cases. She advised that historically, some negotiated settlements have gone into the Consent Agenda.

1. Christopher M. Rice

For this settlement, the teacher had been giving rides to students and engaging them outside of the classroom and had invited some to his house. He settled on a 3 year suspension.

Member Carter moved to accept the settlement agreement and was seconded by Member Jacks.

Superintendent Douglas and Member Taylor opposed the suspension, as they felt it was too light of a sentence. All others voted aye.

5-2. The motion doesn't carry, as it needs at least a vote of 6, a majority of the total number of Board members, to be approved.

Mr. Schwartz and Ms. Anderson advised that settlements are typically given lighter sentences because they admitted wrongdoing. In this case, the teacher could request a hearing and be back before the Board in just a few months. He might as well surrender the certificate and reapply in 3 years. The teacher would be subject to the same PPAC review and Board vote before he could recertify.

Member Taylor opted to change his vote after this information, so with 6-1 the motion carries to suspend the certificate for 3 years.

2. Gordon Ray

The settlement was for a letter of censure to be given for his neglect to wait to submit a report from a student saying that she had been raped.

Member Cheng moved to accept the settlement, seconded by Member Jacks.

Superintendent Douglas voted No, all others voted Aye.

6-1 Motion carries.

3. Donna M. Colson

After a drug test, this teacher was found to have cocaine in her system. She settled for a two year suspension of her teaching certificate.

Member Carter moved to accept the settlement agreement, seconded by Member Jacks.

Superintendent Douglas voted no as she felt it was not strict enough.

All others voted aye.

6-1, motion carries.

4. Catherine Mary Ballman

This teacher was found to have a blood alcohol level of .178 at a school event. She settled for a two year suspension.

Member Carter moved to accept the settlement agreement, seconded by Member Jacks.

Superintendent Douglas voted no, due to inconsistencies in the severity of the transgression but the same length of time for suspension.

All others in favor.

6-1, motion carries.

5. Brandon Brothers

This teacher left a very lewd comment in a student's yearbook and settled for a one year suspension of his teaching certificate.

Member Jacks moved to adopt the settlement, seconded by Member Carter.

All were opposed to the settlement agreement.

0-6, motion fails.

Mr. Schwartz advised that this will likely go to a full hearing and Dr. Schmidt suggested that they seek surrender of his teaching certificate.

Several Board members requested that a discipline matrix be created in a study session.

5. STUDY SESSION

Presentation, discussion and possible action regarding discipline guidelines on certification enforcement actions. Pursuant to A.R.S. § 38-431.03(A)(3), the Board may vote to convene in Executive Session for discussion or consultation for legal advice on this item.

Held until Summer Retreat

6. SUMMARY OF CURRENT EVENTS, FUTURE MEETING DATES AND ITEMS FOR FUTURE AGENDAS.

The executive director, presiding officer or a member of the Board may present a brief summary of current events pursuant to A.R.S. 38-431.01(K), and may discuss future meeting dates and direct staff to place matters on a future agenda. The Board will not discuss or take action on any current event summary.

Superintendent Douglas requested that a discussion on using Board video equipment to live stream the meetings be put on the next agenda.

Member Carter requested that a draft agenda for the Summer Retreat be produced.

Member Taylor requested that ADE give a presentation to the SBE for the results from the AzMERIT test given last year, perhaps in June.

The meeting was adjourned at 1:52 p.m.